

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

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MATTHEW GORSKI, \*  
Petitioner, \* No. 13-224V  
\* Special Master Christian J. Moran  
\*  
v. \* Filed: March 11, 2014  
\*  
SECRETARY OF HEALTH \* Attorneys' fees and costs; award  
AND HUMAN SERVICES, \* in the amount to which  
\* respondent does not object.  
Respondent. \*

\* \* \* \* \*

Anne Carrion Toale, Maglio Christopher and Toale, Sarasota, FL, for Petitioner;  
Ann Donohue Martin, U.S. Department of Justice, Washington, DC, for Respondent.

### UNPUBLISHED DECISION ON FEES AND COSTS<sup>1</sup>

On March 5, 2014, respondent filed a stipulation of fact concerning final attorney's fees and costs in the above-captioned matter. Previously, petitioner informally submitted a draft application for attorneys' fees and costs to respondent for review. In this draft application, petitioner requested \$12,311.54 for attorneys' fees and costs, an amount to which respondent does not object. The Court awards this amount.

On March 29, 2013, Matthew Gorski filed a petition for compensation alleging that the influenza ("flu") vaccine that he received on October 22, 2010, caused him to suffer a radial nerve injury. Petitioner received compensation based upon proffer. Decision, filed Jan. 22, 2014. Because petitioner received compensation, he is entitled to an award of attorneys' fees and costs. 42 U.S.C. § 300aa-15(e).

Petitioner seeks a total of **\$12,311.54** in attorneys' fees and costs for his counsel. Additionally, in compliance with General Order No. 9, petitioner states that he incurred

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<sup>1</sup> The E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002), requires that the Court post this decision on its website. Pursuant to Vaccine Rule 18(b), the parties have 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa-12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

no out-of-pocket litigation expenses while pursuing this claim. Respondent has no objection to the amount requested for attorneys' fees and costs.

After reviewing the request, the Court awards the following:

**A lump sum of \$12,311.54 in the form of a check made payable to petitioner and petitioner's attorney, Anne Carrion Toale of the law firm of Maglio Christopher and Toale, for attorneys' fees and other litigation costs available under 42 U.S.C. § 300aa-15(e).**

The Court thanks the parties for their cooperative efforts in resolving this matter. The Clerk shall enter judgment accordingly.<sup>2</sup>

Any questions may be directed to my law clerk, Mary Holmes, at (202) 357-6353.

**IT IS SO ORDERED.**

s/Christian J. Moran  
Christian J. Moran  
Special Master

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<sup>2</sup> Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.